

AMENDED IN ASSEMBLY APRIL 2, 2008  
AMENDED IN ASSEMBLY MARCH 13, 2008  
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2780**

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**Introduced by Assembly Member Lieu**

February 22, 2008

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~~An act to amend and renumber Section 394.27 of, and to add Section 564 to, the Public Utilities Code, relating to electric service. An act to add Section 3301.5 to the Civil Code, relating to damages.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2780, as amended, Lieu. ~~Electric service outages. Damages: lost profits.~~

*Existing law provides that the measure of damages for the breach of a contract is the amount that will compensate the party aggrieved for all the detriment proximately caused thereby, or which in the ordinary course of things would be likely to result therefrom.*

*This bill would provide that a public entity is not liable for damages for lost profits if the breach of contract is due to the enactment of a valid initiative.*

~~Existing law requires that when a customer files a claim with an electrical corporation for damages to property resulting from the curtailment of electrical service due to the failure of the electrical corporation to reasonably provide service or restore service within a reasonable time after a fire, flood, earthquake, other natural disaster, or act of God, the electrical corporation inform the customer that the claim may be pursued in small claims court or other court, depending upon the amount of the claim.~~

~~This bill would renumber and make nonsubstantive technical changes to this provision:~~

~~This bill would provide, with respect to an electrical corporation that is not also a gas corporation and that has more than 100,000 service connections, that a subscriber that experiences 3 or more unscheduled electrical outages within a 12-month period may bring a claim before the commission for damages from outages resulting from a failure by the electrical corporation to reasonably provide service or resulting from the failure to restore service within a reasonable time. The bill would provide, with respect to an electrical corporation that is not also a gas corporation and that has more than 100,000 service connections, that a city or county in which 3 or more unscheduled electrical outages have occurred within a 12-month period may bring a claim before the commission, on its own behalf and as parens patriae on behalf of residents of the city or county, for damages resulting from outages resulting from a failure by the electrical corporation to reasonably provide service or resulting from the failure to restore service within a reasonable time. The bill would authorize the commission to consolidate claims for purposes of hearing or determining facts common to the claims. The bill would require an electrical corporation that is not also a gas corporation and that has more than 100,000 service connections, to report certain information to the commission within 72 hours of any unplanned outage and to mail a copy of the report to the mayor or city manager of any city that experienced the outage. The bill would require the commission to adopt rules to implement the bill's requirement and to adopt procedures for bringing and resolving claims.~~

~~Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.~~

~~Because the provisions of this bill are within the act and a rulemaking or other action by the commission would be required to implement certain of the bill's provisions, a violation of the rules and procedures adopted by the commission or of the reporting provisions would impose a state-mandated local program by creating a new crime.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 3301.5 is added to the Civil Code, to read:  
2     3301.5. Notwithstanding any other law, a public entity is not  
3     liable for damages for lost profits if the breach of contract is due  
4     to the enactment of a valid initiative.

5     ~~SECTION 1. Section 394.27 of the Public Utilities Code is~~  
6     ~~amended and renumbered to read:~~

7     ~~563. If a customer files a claim with an electrical corporation~~  
8     ~~for damages to property resulting from the curtailment of electric~~  
9     ~~service due to the failure of the electrical corporation to reasonably~~  
10    ~~provide service or restore service within a reasonable time after a~~  
11    ~~fire, flood, earthquake, other natural disaster, or act of God, the~~  
12    ~~electrical corporation shall inform the customer that the claim may~~  
13    ~~be pursued in small claims court or other judicial courts, depending~~  
14    ~~on the amount of the claim.~~

15    ~~SEC. 2. Section 564 is added to the Public Utilities Code, to~~  
16    ~~read:~~

17    ~~564. (a) This section is applicable only to an electrical~~  
18    ~~corporation that is not also a gas corporation and that has more~~  
19    ~~than 100,000 service connections. The commission shall adopt~~  
20    ~~rules to implement the requirements of this section and adopt~~  
21    ~~procedures for bringing and resolving claims.~~

22    ~~(b) In addition to any other available remedy, a subscriber that~~  
23    ~~experiences three or more unscheduled electrical outages within~~  
24    ~~a 12-month period may bring a claim before the commission for~~  
25    ~~damages from outages resulting from a failure by the electrical~~  
26    ~~corporation to reasonably provide service or resulting from the~~  
27    ~~failure to restore service within a reasonable time.~~

28    ~~(c) In addition to any other available remedy, a city or county~~  
29    ~~in which three or more unscheduled electrical outages have~~  
30    ~~occurred within a 12-month period may bring a claim before the~~  
31    ~~commission, on its own behalf and as parens patriae on behalf of~~  
32    ~~residents of the city or county, for damages resulting from outages~~  
33    ~~resulting from a failure by the electrical corporation to reasonably~~  
34    ~~provide service or resulting from the failure to restore service~~  
35    ~~within a reasonable time.~~

1     ~~(d) The commission may consolidate claims made pursuant to~~  
2     ~~this section for purposes of hearing or determining facts common~~  
3     ~~to the claims.~~

4     ~~(e) (1) An electrical corporation shall report the following~~  
5     ~~information to the commission withing 72 hours of any unplanned~~  
6     ~~outage:~~

7         ~~(A) The cause of the outage.~~

8         ~~(B) The response time and effectiveness of the response in~~  
9         ~~restoring electric service.~~

10       ~~(C) Whether the electrical corporation's operation and~~  
11       ~~maintenance practices enhanced or undermined the ability to restore~~  
12       ~~electric service efficiently and in a timely matter.~~

13       ~~(D) The range of cost-effective options that would prevent or~~  
14       ~~mitigate the consequences of the outage.~~

15       ~~(E) Recommendations regarding cost-beneficial improvements~~  
16       ~~to enhance reliability of the electric system.~~

17       ~~(2) A copy of the report shall be mailed to the mayor or city~~  
18       ~~manager of any city that experienced the outage.~~

19     ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
20     ~~Section 6 of Article XIII B of the California Constitution because~~  
21     ~~the only costs that may be incurred by a local agency or school~~  
22     ~~district will be incurred because this act creates a new crime or~~  
23     ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
24     ~~for a crime or infraction, within the meaning of Section 17556 of~~  
25     ~~the Government Code, or changes the definition of a crime within~~  
26     ~~the meaning of Section 6 of Article XIII B of the California~~  
27     ~~Constitution.~~